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## TRANSMITTAL LETTER AND AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

RE: Attorney Docket No.: CAT/29US-SCRO-CO3  
Application Serial No.: 09/756,788  
Filed: 1/10/2001  
Title: System and Method for Providing Shopping Aids and Incentives to  
Customers Through a Computer Network  
Inventor: SCROGGIE et al.  
Group Art Unit: 3622  
Examiner: Stephen GRAVINI

SIR:

Attached hereto for filing are the following papers:  
Information Disclosure Statement  
References 1-5


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Our check in the amount of \$180.00 is attached covering the required fees.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2106. A duplicate copy of this sheet is enclosed.

31518  
PATENT TRADEMARK OFFICE

8/14/03  
Date

  
Richard A. Neifeld, Ph.D.  
Registration No. 35,299  
Attorney of Record

Printed: August 14, 2003 (1:57pm)

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NEIFELD DOCKET NO.: CAT/29US-SCRO-CO3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



IN RE APPLICATION OF: SCROGGIE ET AL.

SERIAL NUMBER: 09/756,788

FILED: 1/10/2001

: GROUP: 3622

: EXAMINER: Gravini

TITLE: System and Method for Providing Shopping Aids and Incentives to Customers Through a Computer Network

37 CFR 1.98 INFORMATION DISCLOSURE STATEMENT

I. 37 CFR 1.98 (1) - List of Information

List of attached items:

1. Cover page and pages 11-14 in an office action dated 12/18/2002 in application 09/526,535 (attorney docket number PIP-50-KENN-US) including "Examiner Affidavit Supporting Obviousness Rejections" over the examiner's alleged personal knowledge of the date of existence and content web site [www.performancebike.com](http://www.performancebike.com).
2. Cover page and pages 17-19 in an office action dated 11/22/2002 in application 09/401,939 (attorney docket number CAT/29US-SCROCO) including "Examiner Affidavit Supporting Obviousness Rejections" over the examiner's alleged personal knowledge of the date of existence and content of web site [www.performancebike.com](http://www.performancebike.com).
3. Extrinsic evidence and supporting reasoning tending to rebut the examiner's allegations regarding the date of existence and content of web site [www.performancebike.com](http://www.performancebike.com). (Portions of appeal brief in application number 09/526,535, docket number PIP-50-KENN-US).
4. Office communication dated 6/30/2003 in 09/526,535 showing, by lack of existence, that the rejections in this application based upon item 1 imposed in an office action dated 12/18/2002 were withdrawn.
5. Cover page and page 11 of an office action dated May 12, 2003 (now expunged on other grounds) in application 09/756,788 (attorney docket number CAT/29US-SCRCO3) showing admissions by the same examiner who executed the affidavits identified as items 1 and 2 that factual assertions he made in those affidavits regarding his personal knowledge of the prior art were not true.

REMARKS

This is an unusual situation. An examiner has stated under oath that the

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www.performancebike.com web site existed at a time that it would have been prior art to the claims in this application, and that the functionality of the web site anticipated or made obvious claims in two related applications. See items 1 and 2. However, there is substantial evidence that those declarations are not probative, including rebuttal evidence and implied admissions by the examiner that his declarations were defective.

The undersigned has presented in 09/526,535 evidence and reasoning disputing the examiner's original sworn assertions as to the date of existence and content of the performancebike.com web site. See item 3. It was in response to the evidence identified in item 3 that the examiner withdrew rejections based upon www.performancebike.com in 09/526,535 as indicated by the lack of reference to those rejections in the Examiner's Answer mailed 6/30/2002 in 09/526,535. See item 4.

Moreover, the examiner has now admitted in application 09/756,788 that at least his assertion as to the date of existence of www.performancebike.com was not true. See item 5.

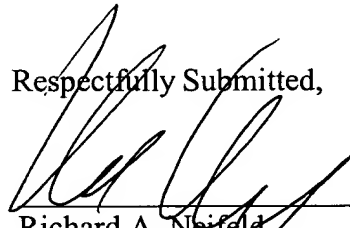
I submit this information now, after (1) conducting an investigation leading to the evidence identified in item 3 and (2) only after my informal request to the group director for the group director to act to provide an alternative mechanism to clarify the record relating to the examiner's assertions of his personal knowledge regarding the prior art in this and related applications was denied.

31518

PATENT TRADEMARK OFFICE

8/13/23  
Date

Respectfully Submitted,

  
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